

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being transmitted electronically to the United States Patent and Trademark Office via the EFS-Web on the date shown below:

/ Timothy K. Ball, USPTO Reg. No. 42,287 /

October 18, 2007

Signature

Date

In re application of: Tracey A. Cavato et al.

)

) Examiner: Anne R. Kubelik

Serial No.: 10/523,290

)

) Group Art Unit: 1638

Filed: October 19, 2005

)

) Conf. No. 5924

For: Corn Event PV-ZMIR13 (MON863) Plants
and Compositions and Methods for Detection
Thereof

)

)

)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION OF BIOLOGICAL CULTURE DEPOSIT

Sir:

I, Timothy K. Ball, hereby declare that I am an attorney of record in the United States Patent and Trademark Office for the above-referenced application, and am authorized to sign for the Assignee of Interest, Monsanto Technology LLC, in this matter. I have reviewed the Biological Culture Deposit Receipt on which I have based the following statements.

1. The following materials referred to in the specification of the above-referenced application have been deposited with the American Type Culture Collection.

<u>Identification Reference by Depositor</u>	<u>Patent Deposit Designation</u>	<u>No. Seeds</u>
Corn; Zea mays: MON863 PV-ZMIR13	PTA-2605	2,500

2. The date of the above deposit is October 17, 2000 and is on or before the U.S. filing date of this application.

3. The name and address of the depository is:

American Type Culture Collection (ATCC)
10801 University Boulevard
Manassas, Virginia, USA ZIP 20110-2209

4. With respect to the permanence of the culture deposit:

- a. the depository is an official depository in accordance with the Budapest Treaty for the above deposited cultures;
- b. the depository affords permanence of the deposit for at least 30 years or at least 5 years after the most recent storage request, whichever is longest; and
- c. evidence that permanent availability of the biological material is assured as provided in the form of the attached copy of the contract with the above-mentioned depository with respect to the deposited cultures.

In the event that the deposited material mutates, become nonviable or is inadvertently destroyed, the Assignee of Interest will replace such deposited material for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the life of any patent issued on the above-mentioned application, plus six (6) years to cover the statute of limitations, whichever period is longer.

5. With respect to availability of the cultures, the deposit has been made under conditions of assurance that during the pendency of this application, access to the deposits will

be afforded to the Commissioner upon request; and all restrictions upon the availability to the public of the deposited biological material will be irrevocably removed upon the granting of a patent on this application.

6. All statements made herein are believed to be true and correct; and these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

/Timothy K. Ball, USPTO Reg. No. 42,287 /

Timothy K. Ball, Ph.D., Esq.
Assistant General Counsel
Monsanto Technology LLC
Monsanto Company
800 North Lindbergh Blvd., E2NA
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October 18, 2007

Date: _____

ATCC

A global bioscience nonprofit
organization dedicated to biological
standards and biodiversity

10801 University Boulevard
Manassas, Virginia 20108-2209 USA

Telephone: (703) 365-2700
Facsimile: (703) 365-2701
Internet: <http://www.atcc.org/>

Date: December 23, 2004


To: Timothy K. Ball
Monsanto Company

From: ATCC Patent Depository

Reference: Patent Deposit Certificate for ATCC No. PTA-2605

Enclosed per your request is a copy of the certificate for the patent deposits assigned ATCC Nos. PTA-2605. The original certificate was sent to the depositor at the time of deposit.

Please note, the ATCC is an IDA as recognized by the World Intellectual Property Organization. A deposit receipt issued by such an IDA is an official document which should be recognized and accepted as official by all states having membership in WIPO without the requirement for further certification or legalization. If you need further assistance please contact me. Thank you.



Tanya Nunnally, Patent Specialist
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ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

BBIK Monsanto Co.
Attn: E. Clifford Lawson
700 Chesterfield Parkway
Chesterfield, MO 63198

Deposited on Behalf of: Monsanto Co.

Identification Reference by Depositor: Patent Deposit Designation

Corn, Zea mays: MON863 PV-ZMIR13 UPTA-2605

The seeds were accompanied by: a scientific description a proposed taxonomic description indicated above.
The seeds were received October 17, 2000 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.


If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested November 6, 2000. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Frank Simone, Director, Patent Depository

Date: January 22, 2001

cc: T.K Ball
(Ref: Docket or Case No.: 38-21(52221))